IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

CAROL SWEENEY, on behalf of   )
herself and all other similarly situated,   )
)
            Plaintiff,   )
)   CIVIL ACTION NO. 3:12-170
v.   )   JUDGE KIM R. GIBSON
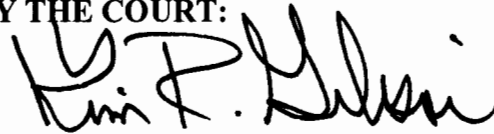   )
ALTOONA REGIONAL HEALTH   )
SYSTEM,   )
)
            Defendant.   )

MEMORANDUM ORDER

AND NOW, this 11th day of March 2013, upon consideration of Plaintiff's Motion for

Dismissal, Without Prejudice, for the Purpose of Transferring State Claims to State Court (Doc.

No. 24), it is hereby ORDERED that the Motion is **GRANTED:** the Court orders the case be

REMANDED FORTHWITH to the Court of Common Pleas of Blair County, Pennsylvania.

Having considered Defendant's Reply to Motion of Plaintiff to Dismiss (Doc. No. 23), in

which Defendant opposes remand of the case to state court, the Court finds that upon the Court's

Order of dismissal with prejudice of the FLSA claim at Count II of the Complaint (Doc. No. 27),

federal subject matter jurisdiction no longer exists because the remaining claims constitute state

law matters arising under Pennsylvania law. 28 U.S.C. §§ 1367(c)(3), 1447(c); see also, *City of*

Pittsburgh Com'n on Human Relations v. Key Ban USA, 163 Fed. Appx. 163, 166 (holding that

district court did not abuse its discretion when it remanded case to Pennsylvania Court of

Common Pleas after dismissing all federal claims prior to trial). Further, this Court is not

persuaded that this case represents an action where complete preemption controls continued

adjudication despite dismissal of the FLSA claim. See *Lambert v. Highlands Hosp.*, 2012 WL

1

4762197 *4 (W.D. Pa. Oct. 5, 2012) (holding that a defendant's preemption defense under the Labor Management Relations Act against plaintiffs' state law claim does not amount to complete preemption that would allow for the creation of a federal claim). Thus, for these reasons, the Court will **REMAND** the case to state court.

 IT IS FURTHER ORDERED that the Clerk of Court is directed to mark this case closed.

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BY THE COURT:

KIM R. GIBSON,
UNITED STATES DISTRICT JUDGE

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